

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SIANA GORDON et al.,
Plaintiffs,

Civil No. 23-2884

v.

NATIONAL RAILROAD PASSENGER
CORPORATION,
Defendant.

ORDER

AND NOW, this 28th day of April, 2025, upon consideration of Plaintiffs' Motion to Dismiss without Prejudice (ECF No. 56), Defendant's Response, and Plaintiff's Reply, it is hereby **ORDERED** that Plaintiffs' motion is **DENIED**.¹

BY THE COURT:


MARY KAY COSTELLO, J.

¹ Plaintiffs ask this Court to dismiss this case without prejudice weeks before trial. In ruling on a motion to dismiss under Rule 41(a)(2), a court considers the prejudice to the defendant. Relevant factors include: "(1) the excessive and duplicative expense of a second litigation; (2) the effort and expense incurred by the defendant in preparing for trial; (3) the extent to which the current suit has progressed; (4) the plaintiff's diligence in bringing the motion to dismiss and explanation therefore; and (5) the pendency of a dispositive motion by the non-moving party. *Dodge-Regupol, Inc. v. RB Rubber Products, Inc.*, 367 F. Supp. 2d 711, 652 (M.D. Pa. 2008) (citation omitted). These factors weigh in favor of denying Plaintiff's motion. Although this case has been pending for more than a year and a half, Plaintiffs now seek dismissal so they can refile it. Plaintiffs' request comes months after discovery closed, weeks before trial, and while Defendant's summary judgment motion is pending. At this stage, Defendant has expended significant efforts and expense to complete fact and expert discovery, file and respond to multiple motions, and begin preparing for trial, which is set for May 13, 2025. Current counsel's dissatisfaction with prior counsel's decisions neither excuses this belated motion nor outweighs the substantial prejudice Defendant will incur if the Court grants a complete do-over weeks before trial. Accordingly, Plaintiff's motion to dismiss without prejudice is denied.